House
REPUBLICAN
Conference

Legislative Digest

Week of April 10, 2000 Vol. XXIX, #10, April 7, 2000

J.C. Watts, Jr.
Chairman
4th District, Oklahoma

Monday, April 10

House Meets at 12:30 p.m. for Morning Hour and 2:00 p.m. for Legislative Business
(No votes before 6:00 p.m.)

**** 7 Suspensions**

Tuesday, April 11, and the Balance of the Week

On Tuesday, House Meets at 9:30 a.m. for Morning Hour and 11:00 a.m. for Legislative Business
On Wednesday-Friday, House Meets at 10:00 a.m. for Legislative Business.
(On Friday No Votes Are Expected Past 2:00 p.m.)

**** 6 Suspensions**

**** Bills Considered under a rule**

ℋ *At press time complete information about this resolution was unavailable. An update will be provided in a Floor Prep prior to consideration by the House..*

Eric Hultman: *Managing Editor*

Jennifer Lords, Greg Mesack & Brendan Shields: *Legislative Analysts*

House REPUBLICAN Conference

Legislative Digest

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Resolutions Authorizing the Use of the Capitol Grounds

H.Con.Res. 277, H.Con.Res. 280

Committee on Transportation & Infrastructure
H.Rept. 106-539 and H.Rept. 106-543

Floor Situation:

The House is scheduled to consider H.Con.Res. 277 and H.Con.Res. 280 under suspension of the rules on Monday, April 10, 2000. Each is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.Con.Res. 277 authorizes the use of the Capitol Grounds on June 25, 2000 for the 59th annual Greater Washington Soap Box Derby; this is the 9th year it will be held at the Capitol. The resolution also authorizes the Capitol Police Board, the Architect of the Capitol, and the Greater Washington Soap Box Derby Association to negotiate the details of the use of Capitol Grounds. The event will be free of charge and open to the public. The Associationis fully responsible for the expenses and liabilities pertaining to this event. H.Con.Res. 277 was introduced by Mr. Hoyer *et al.* on March 13, 2000.

H.Con.Res. 280 authorizes the use of Capitol Grounds for the 2000 Special Olympics Torch Relay ceremonies on June 2, 2000. The ceremony will be part of the torch relay to the District of Columbia Special Olympics Summer Games being held at Gallaudet University. The activities will begin with opening ceremonies for the event on Capitol Hill, followed by over 2,000 Capitol Police law enforcement representatives carrying the torch to recognize the Special Olympics participants. The resolution authorizes the Architect of the Capitol and the Capitol Police Board to ensure that the event is carried out in compliance with regulations governing the use of the Capitol Grounds. The event will be open to the public and free of charge. H.Con.Res. 280 was introduced by Mr. Franks on March 14, 2000.

Committee Action:

The Transportation Committee reported both bills by voice vote on March 16, 2000.

Expressing Continued Sympathy for the Victims of the Oklahoma City Bombing

H. Res. 448

Committee on Transportation and Infrastructure
No Report Filed
Introduced by Mr. Franks *et al.* on March 23, 2000

Floor Situation:

The House is scheduled to consider H. Res. 448 under suspension of the rules on April 10, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H. Res. 448 expresses the sense of the House in continued sympathy for the victims of the Oklahoma City bombing on its 5th anniversary. Specifically, it; (1) recognizes the acts of goodwill by the thousands of volunteers, rescue workers, and Federal, State, and local officials who assisted in the rescue and recovery efforts following the Oklahoma City bombing; (2) sends continued condolences to the friends, families, and loved ones who still suffer from the consequences of the bombing; (3) pledges to make Federal buildings safer while maintaining the level of access for the citizens served by the building; (4) pledges to create awareness of the dangers of flying glass and debris resulting from an act of terrorism, an explosion, or a natural disaster; and (5) pleedges to support and promote the use of available technology to protect people from flying glass and debris.

Background:

On April 19, 1995, a bomb inside a rental truck exploded outside the Alfred P. Murrah Federal Building in downtown Oklahoma City, Oklahoma. The bomb destroyed the front side of the nine-story building, collapsing floors and burying victims. The explosion killed 169 people, including 15 children from a daycare center inside the building. Several building and automobile windows in the immediate area were destroyed. In addition, building roofs were torn off and structural damage was evident in buildings within a five-block radius of the bombing.

Emergency personnel from around the state converged in Oklahoma City immediately after the bombing. Medical technicians, firefighters, nurses, doctors, and city residents gathered outside the Federal Building to contribute what they could to the rescue and recovery efforts taking place. The FBI, Secret Service, Bureau of Alcohol, Tobacco, and Firearms, Oklahoma National Guard, Federal Emergency Management Agency, and members of the Tulsa Police Department were all sent to Oklahoma City for investigative and assistance purposes.

On June 4, 1998, a federal judge sentenced Terry L. Nichols to life in prison without parole for conspiring to use a weapon of mass destruction. He is also serving eight six-year sentences concurrently for his conviction on eight counts of involuntary manslaughter. In June 1997, Timothy James McVeigh was convicted

on all counts connected with the bombing and sentenced to death. Federal legislation to heighten anti-terrorism activities has been initiated following the Oklahoma City bombing and includes provisions for funding, federal studies on issues regarding explosive materials, and increased penalties for personal injury and property damage which results from arson or the use of explosives.

Costs/Committee Action:

The Transportation and Infrastructure Committee did not report on the resolution.

Christina Carr, 226-2302

The Business Checking Modernization Act

H.R. 4067

Committee on Banking and Financial Services
No Report Filed
Introduced by Mr. Metcalf on March 23, 2000

Floor Situation:

The House is scheduled to consider H.R. 4067 under suspension of the rules on Monday, April 10, 2000. The bill is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R 4067 repeals the prohibition of interest payments on business checking accounts that prohibit banks from offering interest bearing checking accounts to businesses. The bill provides a three-year transition period before taking effect. In the interim, banks would be allowed to make up to 24 transfer transactions a month to another account, an increase from the current number of six. This increase allows banks to more easily transfer assets between interest bearing accounts and non-interest bearing checking accounts.

Background:

Regulations dating back to 1933 prohibit banks from paying interest on checking accounts for businesses. This practice was implemented to help reduce competition between banks, especially larger city banks and smaller rural banks. Originally the ban applied to all checking accounts, in part to prevent larger banks from drawing depositors from small town banks and to eliminate fears that banks seeking business would drive up interest rates, creating safety and soundness problems.

Starting in the 1970's Congress began to change these arcane laws to allow a form of interest bearing account for all but business customers. For individuals Congress authorized in 1980 the creation of NOW (negotiable order of withdrawal) accounts, which provide interest-bearing checking. In the meantime, large businesses have found a variety of means to circumvent this regulation. The most common method is to use "sweep" accounts that shift a customer's idle cash from checking accounts to third party interest earning assets overnight. Smaller businesses do not have this opportunity though.

Arguments For and Against the Bill

Proponents of the bill argue that the ban on interest bearing accounts is an arcane regulation designed for a different era, when banks were less stable. The banking industry has undergone substantial change since the 1930's when this rule was passed. Furthermore, most large businesses have found ways around this

rule, making it essentially obsolete. This bill, they argue, will both make our banks more competitive and free small businesses unable to make "sweep" arrangements from cumbersome and costly regulations. The legislation will also free banks from having to utilize sweep accounts, which are very costly. Under H.R. 4067 they will no longer need to shift currencies to other accounts and will simply be able to offer interest on regular checking accounts. They argue that the potential for growth and savings from no longer needing to offer sweep accounts will offset any costs associated with higher interest payments or needing to offer new forms of accounts.

Opponents of this bill are concerned about the possible cost effects it could have on banks. Banks could be impacted in three different ways by this bill, because they could have to pay interest on checking accounts, pay the costs of setting up new forms of accounts, and incur the costs of disbanding accounts created to offer alternatives to non-interest bearing checking accounts. In order to assuage concerns over the cost of this bill, it was amended to allow three years of transition until the regulation is removed.

Costs/Committee Action

At press time a CBO estimate was not available.

The Banking and Financial Services Committee reported the bill by voice vote on March 29, 2000.

Greg Mesack, 226-2305

Declaring the 'Person of the Century' to have been the American G.I.

H. CON. RES. 282

Committee on Armed Services
No Report Filed
Introduced by Mr. Hayes on March 14, 2000

Floor Situation:

The House is scheduled to consider H.Con.Res. 282 under suspension of the rules on Monday, April 10. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H. Con. Res. 282 declares the American G.I. as the 'Person of the Century' for the 20th century. The 20th century has been marked by continuous conflict and war as the struggle for freedom and democracy has been challenged throughout the world. From World War I to the recent NATO efforts in Kosovo, American soldiers, sailors, airmen, and Marines have fought and died in pursuit of what humans value most, liberty. The American G.I. has consistently fought for the values that have led the world away from dictatorships and tyranny toward a course of progress and hope for the future. Historians, organizations and publications have sought to identify those traits that personify these values. This resolution does so by designating the American G.I. as 'Person of the Century.' In February 2000, the accomplishments of the American G.I. have not only made this a better country, but also a better world.

Committee Action:

The bill was not considered by a committee.

Andrea Conis, 226-2302

Honoring the Members of the Armed Forces and Federal Civilian Employees who Served the Nation During the Vietnam Era

H.Con.Res. 228

Committee on Armed Services
No Report Filed
Introduced by Mr. Thompson on November 15, 1999

Floor Situation:

The House is scheduled to consider H.Con.Res. 228 under suspension of the rules on Tuesday, April 11, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.Con.Res. 228 honors and recognizes (1) the service and sacrifice of the members of the Armed Forces and Federal civilian employees who during the Vietnam era served the Nation in the Republic of Vietnam and elsewhere in Southeast Asia or otherwise served in support of United States throughout the world; (2) the sacrifice of the families of individuals who lost their lives or remain unaccounted for or were injured during that era; and (3) the defense of United States national security interests. The resolution also encourages the American people, through appropriate ceremonies and activities, to recognize the service and sacrifice of those individuals. The measure was introduced by Mr. Thompson on November 15, 1999.

The United States Armed Forces conducted military operations in Southeast Asia during the period from February 28,1961 to May 7, 1975 (known as the 'Vietnam era'). During that period, more than 3,403,000 American military personnel served in Southeastern Asia. In addition, thousands of civilian government personnel of the United States Government also served in support of United States operations in Southeast Asia and around the world.

May 7, 2000 is the 25th anniversary of the conclusion of the Vietnam era. This is an appropriate time to express our appreciation of the individuals who served the Nation during the that era.

Committee Action:

The Committee on Armed Forces did not report on this bill.

Sam, 226-2302

Freedom to E-file Act

S. 777

Committee on Agriculture
Introduced by Mr. Fitzgerald *et al* on April 13, 1999

Floor Situation:

The House is scheduled to consider S. 777, under suspension of the rules on Monday, April 10, 2000.

The amendment to S. 777 will be the text of H.R. 852, which was ordered reported by the Committee on Agriculture on March 23, 2000. The Committee on Agriculture will be filing a report on H.R. 852 prior to floor consideration.

Summary:

The House amendment requires the United States Department of Agriculture (USDA) to develop and implement an internet-based filling and retrieval system allowing farmers and other people to complete program applications over the Internet. The bill applies to the following USDA agencies: the Farm Service Agency, the Natural Resource Conservation Service, the Risk Management Agency, and the services of the Rural Development Mission that are located in field offices.

The bill gives the USDA 180 days in which to develop a common method for making program applications and information electronically available, and to allow producers and other people to be able to electronically retrieve program applications over the Internet. Within two years the department must fully implement a system that enables farmers and other people to submit program applications electronically over the Internet. The USDA must file a report after 180 days to update Congress on the program's progress. The Secretary is authorized to allocate $3 million in fiscal year 2001 and $2 million in subsequent fiscal years in order to carry out these provisions.

Background:

The USDA agencies in the bill administer a variety of farm, conservation, and rural development programs through their nation-wide system of field offices. Most of these programs involve a large amount of paperwork in order to apply for program benefits. While USDA's field agencies have made some progress toward enabling people to complete applications electronically, these efforts have generally been independent from one another, and do not take advantage of common procedures.

This bill directs the USDA to develop an internet-based system to allow people to submit program applications electronically, and directs the covered agencies to develop common procedures and utilize compatible hardware and software. It also requires USDA to ensure that relevant information regarding farm programs, quarterly trade reports, economic and production reports and other agency information is electronically available.

Costs/Committee Action:

A CBO cost estimate was not available at press time.

The Agriculture Committee reported the bill by voice vote on March 23, 2000.

Jennifer Lord, 226-7860

Project Exile: The Safe Streets and Neighborhoods Act of 2000

H.R. 4051

Committee on the Judiciary
No Report Filed
Introduced by Mr. McCollum, March 22, 2000

Floor Situation:

The House is scheduled to consider H.R. 4051 under suspension of the rules on Tuesday, April 11, 2000. The bill is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 4051, Project Exile: The Safe Streets and Neighborhoods Act attempts to reduce crime by more vigorous enforcement of existing laws and increasing the penalties for committing crimes while carrying a gun. It establishes a grant program that will provide incentives for States to enact mandatory minimum sentences for certain firearms offenses and public awareness campaigns. The bill provides a total of $100 million dollars over five years to states that implement mandatory sentencing programs for criminals who carry a firearm during and in relation to a violent crime. The money will help to implement the program and defray costs associated with increased enforcement. The funds will be used to hire and train more judges, prosecutors, and probation officers as well as fund more prison construction and information sharing systems. These funds are non-supplanting, and therefore cannot be used to replace state funds diverted for other uses. Instead, they must be used to increase the amount of funds that would be allocated in the absences of federal funds.

In order to qualify for Project Exile funds states must meet certain criteria. They must:

(1) require a mandatory minimum sentence of five years in prison, without parole, for anyone who (a) uses or carries a firearm during and in relation to a violent crime (murder, forcible rape, robbery, and aggravated assault) or serious drug trafficking offense or (b) is convicted of possessing a firearm and has a prior conviction for a violent crime or serious drug trafficking offense;

(2) implement a public awareness campaign to make violent criminals aware of the tougher sentences for gun crimes and develop community support for the Exile program and;

(3) provide assurances that the state will coordinate with federal prosecutors and federal law enforcement agencies serving their jurisdictions, so as to foster federal involvement.

A state can also qualify for Project Exile funds without a five year mandatory sentencing law, if it agrees that in cases where the state law does not carry a minimum five year penalty for gun related crimes, it will refer the case to federal court. Also, for those states enacting a mandatory minimum sentence for carrying a

firearm, the five year minimum conviction must be in addition to the sentence for the underlying crime.

Currently six states would qualify for funding under this legislation. They include Virginia, Texas, Florida, Louisiana, South Carolina, and Colorado.

H.R. 4051 authorizes $10 million in the first year (FY 2001), $15 million in the second year, $20 million in the third year, $25 million in the fourth year, and $30 million in the final year. Each state is allotted a portion of the funds based on its relative amount of violent crime for all qualifying states based on a percentage of the total violent crime reported to the FBI for the three years preceding the year in which the determination is made. States must provide assurances that they will allocate their resources with the purpose of addressing crime in its highest crime areas and may use the grant money to make sub-grants to cities and counties.

Background:

Project Exile started as a program in the city of Richmond, Virginia as an attempt to reduce violent crime. Since the program began in 1997 violent crimes involving handguns decreased by 65 percent and overall violent crime decreased by 35 percent. 385 guns were taken off of the street. In 1999, Project Exile was adopted statewide in Virginia. It has given prosecutors the ability to choose which courts to try offenders in, as well as created tougher penalties for people committing crimes with guns.

Recently America has witnessed a rash of gun violence, especially in our schools. This has prompted a national debate about the best way to deal with gun violence in a society that has a constitutionally guaranteed right to bear arms. Some advocate restrictions on access to guns, especially handguns, and gun licensing so as to track weapons used in crimes. Other groups say that there are more than enough laws restricting gun ownership and that greater enforcement of these laws will reduce crime and protect citizens. There have also been a number of recent reports that indicate that under the Clinton Administration federal prosecution of crimes committed while possessing a gun decreased from 1992 to 1997, while at the same time the Administration was calling for stricter gun control laws. It should be noted though, that in 1998, after the beginning of Project Exile, the number of prosecutions began to increase dramatically.

Costs/Committee Action

A CBO estimate was unavailable at press time.

The Judiciary Committee held hearings on the bill on Thursday April 6, 2000.

Greg Mesack, 226-2305

Civil Asset Forfeiture Reform Act of 2000

H. R. 1658

Committee on the Judiciary
H Rept. 106-93
Introduced by Mr. Mr. Hyde *et. al*

Floor Situation:

The House is scheduled to consider H. R. 1658 under suspension of the rules on Tuesday, April 11, 2000. It is debatable for forty minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H. R. 1658 makes a number of reforms to the federal civil forfeiture procedures. The bill increases protections for property owners but also preserves the ability of law enforcement and the courts to seize property. The bill shifts the burden of proof throughout forfeiture proceedings from individuals who have had their property seized to the federal government. It places reasonable time limits on the government to reach a final disposition of civil forfeiture cases and awards attorneys' fees and costs to individuals who prevail against the federal government. H. R. 1658 also authorizes the court to release property pending trial in appropriate situations and eliminates the cost bond and replaces it with other assurances to the government and courts. The bill provides a uniform innocent owner defense to all federal civil forfeiture cases.

In addition, H. R. 1658 strengthens the ability of the Department of Justice to deprive criminals of the proceeds of their criminal activity. The bill extends criminal forfeiture authority to any federal statute where civil forfeiture authority now exists and contains several mechanisms for deterring frivolous claims to seized property.

Background:

Federal civil forfeiture procedures had their origins in 19th century admiralty law and have been used historically by the federal government in both civil and criminal proceedings. However, these laws and their application by law enforcement and the courts have provided inadequate protections for private property. For example, under present law, when the federal government seizes property the burden of proof falls to the property owner to prove that the property is not subject to forfeiture. An owner must also post a "cost bond" which does not guarantee return of the property to the owner but merely allows the claimant to contest the forfeiture. If a property owner files a claim for return of the property, the government has up to five years to file a complaint. In recent years, federal authorities have been overly aggressive in using the federal forfeiture statutes and numerous legal scholars and commentators have criticized the current system. Federal judges have also expressed concern about the government's use of current forfeiture statutes. In 1992, the Court of Appeals for the Second Circuit stated that it was "enormously troubled by the government's increasing and virtually unchecked use of the civil forfeiture statutes and the

disregard for due process that is buried in those statutes." More recently, other courts of appeals have joined the chorus of criticism of the federal government's use of federal forfeiture laws. This legislation seeks to address many of these concerns.

Support for H. R. 1658 has been bipartisan in nature with Chairman Hyde and ranking minority member Mr. Conyers joining in support of the legislation. Likewise in the Senate, Committee on the Judiciary Chairman Hatch and ranking minority member Senator Leahy worked closely to craft a bill that also combined reforms in civil forfeiture reform legislation introduced by Senators Sessions and Schumer. In addition, the last six Attorneys General of the United States endorsed the legislation as well as a wide range of organizations.

Major Reforms Made by H. R. 1658

Shifting of Burden of Proof to Government

Currently, when a property owner goes to federal court to challenge a seizure of property, all the government needs to do is to make an initial showing of probable cause that the property is subject to civil forfeiture. The property owner must then establish that the property is "innocent." H.R. 1658 would require the government to prove by a preponderance of the evidence that the property is subject to forfeiture.

Substantial Connection to Commission of Crime

H.R. 1658 provides that if the government's theory of forfeiture is that property was used to commit or facilitate the commission of a crime, or was involved in the commission of a crime, the government must show that there was a substantial connection between the property and the crime. Such forfeitures often involve homes, bank accounts and conveyances such as cars and airplanes.

Release of Property Prior to Disposition of Case

H.R. 1658 provides that property can be released by a federal court pending final disposition of a case if continued possession by the government would cause the property owner substantial hardship (such as preventing the functioning of a business or leaving an individual homeless) and the likely hardship outweighs the risk that the property will be destroyed, damaged, lost, concealed or transferred if returned to the owner. The court may place conditions on the release of the property necessary to ensure its availability for forfeiture should the government eventually prevail.

Attorneys Fees and Appointment of Counsel

Currently, property owners who successfully challenge the seizure of their property are almost never awarded attorney's fees. In addition, indigents have no right to appointed counsel in civil forfeiture cases. H.R. 1658 provides that property owners who substantially prevail in court will receive reasonable attorney's fees. In addition, the bill will allows a court to provide counsel for indigents if they are represented by appointed counsel in related criminal cases.

Eliminates Cost Bond Requirement

Currently, a property owner wanting to contest a civil forfeiture in federal court must give a bond of the lesser of $5,000 or 10% of the value of the property seized (but not less than $250). H.R. 1658 would eliminate this requirement. However, the bill provides that if a court finds that a claimant's assertion of an interest in property was frivolous, the court may impose a civil fine.

Protects Innocent Property Owners

H.R. 1658 creates a uniform innocent owner defense for all federal civil forfeiture statutes. For an owner to be "innocent", the owner must either (1) not have known of the illegal conduct giving rise to the forfeiture, or (2) upon learning of the conduct giving rise to the forfeiture, must have done what reasonably could be expected under the circumstances to terminate the illegal use by others.

To do what can reasonably be expected, the owner is not required to take steps that the owner reasonably believes would be likely to subject him or her to physical danger. An owner can show that he or she has done what can be reasonably expected if he or she (1) has given timely notice to the police and (2) has in a timely fashion revoked or made a good faith attempt to revoke permission to use the property from those engaging in the illegal conduct, or has taken reasonable action in consultation with a law enforcement agent to discourage the illegal use.

Remedy for Damage to Property in Custody of Government

Currently, the federal government is exempt from liability for damage caused during the handling or storage of property being detained by law enforcement officers. H.R. 1658 allows property owners to sue the government for compensation for damage.

Uniform Definition of Proceeds

H.R. 1658 provides that in cases involving illegal goods or services, unlawful activities and telemarketing and health care fraud schemes, forfeitable proceeds are property obtained directly or indirectly as the result of the commission of the offense giving rise to forfeiture, and any property traceable thereto, and is not limited to the net gain or profit realized from the offense. In cases involving lawful goods or services that are sold or provided in an illegal manner, forfeitable proceeds are money acquired through the illegal transactions less the direct costs incurred in providing the goods or services.

Costs/Committee Action:

A CBO cost estimate was unavailable at press time.

The Committee on the Judiciary adopted H. R. 1658 by a vote of 27-3 and ordered the bill reported on June 15, 1999.

Eric Hultman, 226-2304

Visa Waiver Permanent Program Act

H.R. 3767

Committee on the Judiciary
Introduced by Mr. Smith *et al* on March 1, 2000

Floor Situation:

The House is scheduled to consider H.R. 3767 on Tuesday, April 11, 2000. The Rules Committee has not yet scheduled a time to meet on the bill. Additional information on the rule and potential amendments will be provided in a *Floor Prep* prior to floor consideration.

Summary:

H.R. 3767 makes the Visa Waiver Pilot Program (VWPP) permanent. This ends the program's 14-year "pilot" status. The bill is designed to make improvements in "performance and management." New provisions would: (1) strengthen the requirement that participating countries issue machine-readable passports; (2) prohibit the Attorney General from paroling inadmissible aliens who apply for admission under the VWP; (3) provide for ongoing evaluation of participating countries (at least every 5 years); (4) allow for emergency rescission of visa waiver status under certain conditions; and (5) require that entry/exit control data be collected under the VWP at air and sea ports of entry.

Background:

The Visa Waiver Pilot Program allows people from designated countries to visit the U.S. in a business or tourist capacity for 90 days without a nonimmigrant visa. Twenty-nine countries are currently involved in this program. Participating countries also extend reciprocal privileges to U.S. citizens. The current statutory authorization for this program (INA § 217(f)) is scheduled to expire on April 30, 2000.

The VWPP promotes international travel and reduces consular workload abroad. It is strongly supported by the travel and tourism industry, which points to the benefits of increased economic growth generated by foreign business and tourism. On the other hand, the VWPP may contribute to illegal immigration by easing the visa and inspections process.

Costs/Committee Action:

A CBO cost estimate was not available at press time.

The Judiciary Committee reported the bill by voice vote on April 4th, 2000.

Jennifer Lord, 226-7860

Sense of Congress that Miami, Florida Should Serve as the Permanent Location for the Secretariat of the Free Trade Area of the Americas (FTAA)

S.Con.Res. 71

Committee on Finance
Introduced by Senator Graham (FL) on November 8, 1999

Floor Situation:

The House is scheduled to consider S.Con.Res. 71 on Monday, April 10, 2000 under suspension of the rules. The resolution is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

S.Con.Res. 71 expresses the sense of Congress that President Clinton should direct the U.S. representative to the Free Trade Area of the Americas (FTAA) negotiations to use all available means to make Miami, Florida, as the permanent site of the FTAA Secretariat after February 28, 2005.

The FTAA facilitates cooperation and mediates trade barrier reductions throughout the Americas. Trade ministers from 34 countries in the Western Hemisphere agreed in 1998 to create a permanent Secretariat in order to support negotiations on establishing the FTAA. The FTAA Secretariat, funded by a combination of local and institutional resources, employs people to provide logistical, administrative, archival, translation, publication and distribution support for negotiations. The temporary site of the FTAA Secretariat is now located in Miami, Florida until February 28, 2001. The Secretariat will then be moved to Panama City, Panama until February 28, 2003 and is then scheduled to be in Mexico City, Mexico until February 28, 2005.

The permanent home of the Secretariat is important because the host country gains international institution status and economic benefits. The city of Miami, Miami-Dade County, and the State of Florida have long been a gateway for trade with the Caribbean and Latin American regions. Trade between the city of Miami, Florida, and the countries of Latin America and the Caribbean totaled nearly $37 billion in FY 1998. The Miami-Dade area and the State of Florida have the infrastructure, resources and culture appropriate for the FTAA Secretariat's permanent site. The United States also possesses the world's largest economy and is the leading proponent of trade liberalization throughout the world. Finally, Miami, Florida is a unique site for the permanent home of the FTAA Secretariat because of the high level of commercial traffic in the region.

Committee Action:

Resolution was agreed to in the Senate without amendment and with a preamble by Unanimous Consent on November 19,1999. This bill was not considered by a committee.

Encouraging Governments to Collect and Disseminate Statistics on the Number of Newborn Babies Abandoned in Public Places

H. Res. 465

Committee on Education and the Workforce
No Report Filed
Introduced by Mrs. Johnson *et al.* on April 6, 2000

Floor Situation:

The House is scheduled to consider H. Res. 465 on April 11, 2000 under suspension of the rules. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H. Res. 465 expresses the sense of the House that local, State, and Federal statistics should be kept on the number of babies abandoned in public places. Currently, national statistics on the number of infants born and abandoned in hospitals are kept, but the number of newborn babies left in dumpsters, trash bins, alleys, warehouses, bathrooms, and other public places is unknown. Since April is Child Abuse Prevention Month, Congress should take the opportunity to direct attention to, and raise awareness of the problem of newborn babies abandoned in public places.

Costs/Committee Action:

A CBO estimate was unavailable at press time.

The Education and Workforce Committee did not report on this bill.

Christina Carr, 226-2302

Taxpayer Bill of Rights Act

H.R. 4163

Committee on Ways & Means
H.Rept. 106-___
Introduced by Mr. Houghton on April 4, 2000

Floor Situation:

The House will consider H.R. 4163 Monday under suspension of the rules on Tuesday, April 11, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 4163 simplifies the complicated process of paying taxes by waiving IRS penalties in some cases, protecting taxpayer privacy, and helping to level the playing field between the IRS and tax-payers. It builds on the IRS Reform Act (*P.L. 105-206*), which was the first reform of the IRS since 1952. Specifically, this measure help to protect taxpayer privacy by:

* protecting against computer hackers and illegal disclosures from states with access to federal tax information;

* putting in new protections against "browsing" of taxpayer information by IRS employees and requiring immediate notification to taxpayers if tax information is obtained illegally by third parties;

* improving notification to taxpayers of undelivered refund checks; and

* toughening consent requirements for access to tax return information by banks and lenders.

Additionally, the measure levels the playing field by (1) allowing interest on past-due taxes to be waived if the IRS makes mistakes or causes unreasonable delays; (2) making IRS interest payments tax free; (3) gives taxpayers a four month period to enter into an agreement without a late payment service charge; and (4) allowing taxpayers in a dispute to limit their exposure to underpayment interest by using a dispute reserve account.

Finally, the measure simplifies the tax paying process by simplifying the calculation of estimated tax by providing for one interest rate per underpayment period and by converting today's penalty for failure to pay estimated tax into an interest charge.

Provisions

—Title I: Penalties and Interest—

Convert Penalty for Failure to Pay Estimated Tax into an Interest Provision. H.R. 4163: (1) changes the penalty for failure to pay estimated tax into an interest provision; (2) increases the threshold for underpayment of estimated tax from $1,000 to $2,000 for tax-payers who have wages withheld; (3) and allows both withheld and estimated tax paid equally throughout the year to be considered in determining whether the threshold has been met.

Simplify Estimated Tax Calculation. The bill provides one interest rate per underpayment period. This ensures the interest rate on the underpayment remains constant even if the federal rate changes during the middle of the quarter. In addition, the bill simplifies the calculation of estimated tax by eliminating the requirement to track each underpayment separately and allowing taxpayers to cumulate their underpayments as opposed to doing separate calculations for each quarter of underpayment. Finally, a 365-day year will be used for all estimated tax underpayment calculations, regardless of whether the taxable year is a leap year.

Exclude Interest on Individual Federal Income Tax Overpayments. H.R. 4163 allows taxpayers who overpaid their taxes to exclude from their income any interest paid to them by the IRS on the overpayment. The Treasury Secretary is given authority to address situations where taxpayers inappropriately take advantage of this exclusion.

Repeal and Reduce Penalty for Failure to Pay Tax. The bill also repeals the penalty for failing to pay taxes for taxpayers who have entered into installment agreements. Also, the bill reduces the failure to pay tax penalty for all other taxpayers (generally those who have not entered into installment agreements) to 0.25 percent per month instead of 0.5 percent per month. For those taxpayers who agree to an automated withdrawal of each installment payment directly from their bank account, the $43 fee is waived.

Abatement of Interest. H.R. 4163 expands the circumstances in which interest on an underpayment of tax may be abated. Interest will be required to be abated on any erroneous refund that was not caused by the taxpayer and on underpayments that are attributable to erroneous written advice furnished by the IRS. Abatements also will be authorized to the extent the interest is attributable to any unreasonable IRS error or delay or if a gross injustice will result if interest was to be charged. Finally, abatements can be offered to taxpayers who are paying excessive amounts to the IRS.

Qualified Reserve Accounts. The bill allows taxpayers to limit their exposure to underpayment interest by using qualified reserve accounts (or called a qualified dispute reserve fund). Amounts deposited in a qualified reserve account can either be withdrawn with interest or used to offset an underpayment of tax. Additionally, the use of a qualified reserve account does not affect the ability of the taxpayer to be heard by the Tax Court.

Interest Netting Rules. The measure provides that in the case of an individual taxpayer, the interest netting rules will be applied without regard to the 45-day period in which the Secretary of the Treasury may refund an overpayment of tax without the payment of interest under section 6611(e). The bill does not modify the period for which the interest is allowable or payable.

—Title II: Confidentiality and Disclosure—

Disclosure and Privacy Rules Relating to Returns and Return Information. H.R. 4163 clarifies that the Internal Revenue Code (not the Privacy Act)

exclusively governs the disclosure and inspection of income tax returns. An administrative and judicial appeal process will be available with respect to requests made to the IRS for returns and return information.

Access to the Working Law of the IRS. The measure requires the IRS to disclose all advice or instructions issued to IRS or Chief Counsel employees that convey: (1) a legal interpretation of a revenue provision; (2) an IRS or Chief Counsel policy concerning a revenue provision; or (3) a legal interpretation of state law, foreign law, or other federal law relating to the assessment or collection of any liability under a revenue provision.

Disclosure Upon Oral Request of Collection Activities with Respect to a Joint Return. The measure allows former spouses to make oral requests to get copies of joint income tax returns that they filed, eliminating the requirement for a written request.

Taxpayer Representatives Not Subject to Inspection Without Supervisor Approval. The bill clarifies that an IRS employee conducting an examination of a taxpayer is not authorized to inspect a taxpayer representative's (e.g., lawyer or accountant) return or return information solely on the basis of the representative relationship to the taxpayer. Under the bill, the supervisor of the IRS employee has to approve such inspection after making a determination that other grounds justified an inspection.

Restrictions on Disclosure in Judicial or Administrative Tax Proceedings. H.R. 4163 provides that only the portions of a nonparty return or return information that directly relate to the resolution of an issue in the proceeding can be disclosed in such proceeding. The nonparty is given reasonable notice prior to the disclosure and the opportunity to request that certain material be deleted from the information to be disclosed.

Prohibition in Disclosing Taxpayer Identification Information for Offers-in-Compromise. The bill prohibits the disclosure of taxpayers' address and identification number as part of the publicly available summaries of accepted offers-in-compromise.

Compliance by State Contractors with Confidentiality Safeguards. The measure requires that states conduct annual on-site reviews of all of its contractors receiving federal returns and return information as agents of the state tax administration agency to assess the contractors' efforts to safeguard federal returns and return information. This will protect against possible computer hacking and illegal disclosures. Finally, the state is required to submit a report of its findings to the IRS and annually certify that all contractors are in compliance.

Requests and Consents to Disclose Taxpayer Information. The bill imposes higher standards to protect taxpayers when they are requested to disclose tax return information. This will ensure that banks and lenders keep information confidential. Also, the bill prevents taxpayers from being coerced into signing incomplete disclosure forms. Additionally, all third parties receiving returns and return information by consent are required to ensure that the information received will be kept confidential, use the information only for the purpose for which it was requested and, not to further disclose the information except to accomplish that purpose (unless a separate consent from the taxpayer is obtained).

Notice to Taxpayers Concerning Browsing. The measure requires the IRS to notify taxpayers after the Treasury Inspector General for Tax Administration determines that a taxpayer's return or return information has been disclosed or inspected without authorization. Also, the IRS is required to provide information on unauthorized disclosures or inspections of return and return information in its public annual

report to the Joint Committee on Taxation.

Disclosure of Taxpayer Identity for Undelivered Refund Purposes. H.R. 4163 allows the IRS to use any means of "mass communication" (including the Internet) to notify taxpayers of an undelivered refund. This will improve current practice on newspaper advertisement.

—Title III: Other Requirements—

Outreach to Churches. The bill clarifies that the church tax inquiry procedures do not apply to contacts made by the IRS for the purpose of educating churches with respect to the law governing tax-exempt organizations.

Written Determinations with Respect to Exempt Organizations. The measure provides that a tax-exempt organization is deemed to have exhausted its administrative remedies under the declaratory judgment procedures contained in section 7428 at the expiration of: (1) 270 days after the date on which the request for a written determination was made or, if earlier, (2) 180 days after such request for written determination was received in the IRS National Office. Additionally, the bill allows tax-exempt organizations to seek judicial relief for IRS inaction on written determinations. This measure hastens the IRS's decisions regarding these organizations.

Treasury Inspector General for Tax Administration Reports. H.R. 4162 mandates the Treasury Inspector General for Tax Administration to: (1) include a description of the ten most common complaints of employee misconduct and the number of complaints made in each such category in its semi-annual report; (2) annually submit to Congress a report on awards of costs and certain fees (e.g., attorney's fees) in administrative and court proceedings; (3) annually submit to Congress a report on abatements of penalties under the Internal Revenue Code; and (4) submit to Congress a report evaluating whether technological advances (e.g., e-mail and facsimile transmission) permit the use of alternative means for the IRS to communicate with taxpayers as opposed to mail or phone.

Increase Joint Committee Refund Review Threshold to $2 million. The measure increases the threshold above which refunds must be submitted to the Joint Committee on Taxation for review from $1 million to $2 million.

Information Regarding Statute of Limitations. The bill requires the IRS to revise their "Your Rights as a Taxpayer" publication by adding an explanation of the consequences of failing to file within the time prescribed by the statute of limitations. The measure also requires the IRS to revise the instructions that accompany all of the Form 1040 packages (including 1040A and 1040EZ) similarly.

Background:

Beginning with its initial reform in 1952, the power of the IRS continues to be under constant scrutiny. While April remains a time when the majority of American taxpayers feel the overwhelming powers of the IRS, a call for institutional change in the administration of the tax laws by Service has been the subject of much legislation. Early reform resulted from a series of unfavorable General Accounting Office (GAO) reports issued between 1991 and 1997. Reforms included updating computer equipment that resulted in a more convenient tax refunds for millions of Americans and the acceleration of agency reviews of tax

returns. Further reports performed by GAO and other independent efforts revealed poor, unprofessional, and discourteous treatment by IRS employees toward taxpayers. A call for improved legislation focused on extensive internal management reform as well as service conduct toward taxpayers.

In 1996, attempting to make the IRS a more service-oriented federal agency, Congress appointed a one year National Commission for the restructuring of the IRS under the joint chairmanship of Rep. Rob Portman and Senator Bob Kerrey. In November 1997, the commission's report led to the passage of a bill which embodied its major recommendations for restructuring management and administrative oversight (H.R. 2676). The reforms highlighted the need to preserve the IRS's mission of working for the taxpayer. The House bill, sponsored by Ways and Means Committee Chairman Bill Archer, called for new protections for taxpayers and new procedures for revaluating employee performance.

Hearings conducted in the early months of 1998 by the Senate Committee on Finance confirmed abuses by the IRS against taxpayers that were previously described in September 1996. The 1996 IRS Data Book recorded more than 60 legal actions brought against individual IRS employees, with over half decided in favor of the taxpayer. As a result, legislation on restructuring the IRS was referred to as the "Taxpayer's Bill of Rights" (a section of the Restructuring and Reform Act). It mandated stricter provisions aimed at protecting taxpayers from abuse by the Service. The president signed it into law in July 1998.

The Restructuring and Reform Act of 1998 (*P.L. 105-206*) provided a series of significant changes and reforms to the operating procedures, tax code provisions, and regulations the IRS. These reforms were intended to provide a more taxpayer-friendly agency, as well as curb tax code provisions which prove to be burdensome for taxpayers generally. Major changes included (1) shifting the burden of proof in tax liability disputes between the IRS and taxpayers from the taxpayer to the agency (which must show that the taxpayer owes the taxes deemed to be due by the agency); (2) the creation of an independent board to initiate and oversee changes in mission and direction to be taken by the IRS; (3) providing an "innocent spouse" provision to guard taxpayers who, although they file jointly with a spouse, remain unaware of their tax and financial details even when they pay a deficient amount of taxes to the IRS; (4) requiring the Treasury secretary to develop procedures to file tax returns electronically and receive currently-required signatures on the returns; (5) reducing from 18 to 12 months the amount of time that property must be held in order to qualify for lower capital gains rates; creating formal written procedures with which the IRS must comply when it seeks to collect taxes by levy (including seizing property); and (6) establishing the term "normal trade relations" in place of the currently-used "most-favored-nation" status with regard to the type of trade relations that exists between the U.S. and other countries.

Costs/Committee Action:

The Joint Committee on Taxation estimates that enactment of H.R. 4163 will cost $2.1 billion through FYs 2000-2005.

H.R. 4163 was reported by the Committee on Ways & Means by voice vote on April 5, 2000.

Brendan Shields, 226-0378
Eileen Harley, 226-2302

Tax Limitation Amendment 2000

H. J. Res. 94

Committee on the Judiciary
No Report Filed
Introduced by Mssrs. Sessions and Hall, April 6, 2000

Summary:

H. J. Res. 94 proposes to amend the U.S. Constitution to require that any bill, resolution or other legislative measure changing the internal revenue laws considered by each House of Congress have a concurrence of two-thirds of those present and voting for final adoption. There are exceptions to application of the amendment: (1) if the bill, resolution or legislative measure can be determined at the time of adoption, in a reasonable manner prescribed by law, to increase taxes by a *de minimus* amount, then the two-thirds requirement of the constitutional amendment does not apply; (2) Congress may waive the so-called super-majority requirement when a declaration of war is in effect or when the United States is engaged in a military conflict which causes an imminent and serious threat to national security and which is declared to exist and was adopted by a majority vote in both Houses and signed into law by the president.

Background:

On the opening day of the 104th Congress (1995), in conjunction with the Contract with America, a change in the House rules was adopted requiring that an increase in the income tax rate be approved by a three-fifths vote of the House. A bill offered by Mr. Barton during the 104th Congress to amend the Constitution with the three-fifths majority requirement failed to pass the House. In subsequent sessions of the Congress, several constitutional amendments have been considered that are more restrictive than the House rule. These proposals require two-thirds rather than three-fifths for adoption and also apply the requirement to the U.S. Senate. Twice in the 105h Congress and last year in the 106th the House considered such proposed amendments which failed to reach the requisite two-thirds for passage. Currently, 14 states have tax limitation amendments in their state constitutions.

Arguments For and Against the Resolution

Arguments for H.J. Res. 94

Proponents of a super-majority requirement argue that such an amendment is necessary in order to make Congress more fiscally responsible and instill greater public confidence in the tax system. The National Commission on Economic Growth, chaired by former Representative Jack Kemp, argued that requiring a greater majority to increase taxes would increase the predictability and stability of the tax system. Other proponents of the two-thirds requirement argue that it would make Congress focus more on options other than raising taxes to manage the federal budget and preclude tax increases that may not

have strong bipartisan and congressional support. Proponents also point out that the Constitution already provides for a two-thirds vote for major decisions like amending the Constitution and impeachment of the president. That same high standard ought to be required for legislation increasing taxes on Americans.

Arguments Against H.J.Res. 94

Opponents against a constitutional amendment requiring two-thirds majority to adopt tax measures argue that such proposals disregard the constitutional principle of majority rule and shifts control over tax legislation to a minority of members in each House of Congress. Opponents also argue that an extraordinary requirement is impractical pointing out the instances in which the Congress has waived its rule mandating a three-fifths vote for tax increases. Critics of the proposals for a constitutional amendment also argue that the language in the amendment is sure to attract litigation. For example, it is argued that the term "*de minimus"* is vague and will surely lead to attempts for judicial interpretation. Finally, those opposed to the resolution point out that the two-thirds majority vote is used to determine "process" issues like amending the Constitution, but should not be used for "policy' determinations.

Committee Action:

H.J.Res.94 was introduced on April 6, 2000.

Eric Hultman, 226-2304

The Clean Lakes Program

H.R. 2328

Committee on Transportation & Infrastructure
H. Rept. 106-560
Introduced by Mr. Sweeney, June 23, 1999

Floor Situation:

The House is scheduled to consider H.R. 2328 the week of April 10, 2000. The Rules Committee will meet on at 1:00 p.m., Tuesday, April 11, 2000. Additional information on the rule and potential amendments will be provided in a *FloorPrep* prior to floor consideration.

Summary:

H.R. 2328 reauthorizes the Clean Lakes program that provides grants to states for FY2000-2005 at a level of $50 million annually. It also adds funding (increase from $15 million to $25 million a year) for the "acidified waters" component of the program. Several lakes are added to the list of lakes to receive priority funding for demonstration projects: Otsego Lake in New York; Oneida Lake in New York; Raystown Lake in Pennsylvania; and Swan Lake in Itasca County, Minnesota.

Background and Need for Legislation:

The Clean Lakes Program was established under Section 314 of the Clean Water Act and provides financial and technical assistance to States to restore publicly owned lakes. Over the last century the water quality of North American lakes has deteriorated. Between 1976-1990, the Clean Lakes Program received approximately $145 million in federal grants. The program expired in 1990 and since then the EPA has not requested funding for the program and has not received appropriation funds since 1995. In May 1996 the EPA encouraged states to fund eligible Clean Lakes activities through funds made available for nonpoint source management. Some funds have been made available through that program but in order to meet the Clean Water Act's goals of having all of American waters "fishable and swimmable," including the 41 million acres of freshwater lakes additional funding is needed.

The Clean Lakes Program has been popular with local watershed-based, community projects and activities. The focus of the program is prevention and remediation of pollution. This broad-based program helps communities address a wide range of water quality issues. Problems like degraded shoreline, mercury contamination, wetland loss, invasive species, fishery imbalances and other threats to water quality and lake habitat are difficult or impossible to address under Section 319 (nonpoint source management) guidelines. H. R. 2328 responds to these needs by reauthorizing the Clean Lakes Program.

Costs/Committee Action:

CBO estimates that enactment will cost $239 million over the next five years. The bill does not affect direct spending or receipts thus pay-as-you-go procedures do not apply.

The Transportation & Infrastructure Committee reported the bill by voice vote on March 16, 2000.

Eric Hultman, 226-2304

Restoration of the Chesapeake Bay

H.R. 3039

Committee on Transportation & Infrastructure
H. Rept. 106-550
Introduced by Mr. Bateman, October 7, 1999

Floor Situation:

The House is scheduled to consider H.R. 3039 the week of April 10, 2000. The Rules Committee is scheduled to meet at 1:00 p.m., Tuesday, April 11, 2000. Additional information on the rule and any potential amendments will be provided in a *FloorPrep* prior to floor consideration.

Summary:

H.R. 3039 amends the Federal Water Pollution Control Act (Clean Water Act) to continue the Chesapeake Bay Program administered by the Environmental Protection Agency. The bill creates a Chesapeake Bay Program Office within the Office of the EPA Administrator that will provide support to a new Chesapeake Bay Executive Council made up of the signatories to the Chesapeake Bay Agreement. The new Program Office will implement and coordinate science, research, modeling, data collection and other activities that support the Chesapeake Bay Program.

The office will also develop publications and provide technical assistance, develop and implement specific action plans and carry out the responsibilities of the Executive Council. It will also coordinate the actions of appropriate federal state and local authorities in developing and implementing strategies to improve the water quality and living resources in the Chesapeake Bay ecosystem. The Administrator may also make federal technical assistance and other grants on a matching basis (up to 75 percent of the eligible costs) to implement and monitor activities under the Agreement. The federal share for implementation grants shall not exceed 50 percent.

The Administrator shall report on or before October 1 of each fiscal year on the status of the programs established under the bill, goals for the coming year and the net benefits of prior year projects. Federal agencies that operate facilities within the Chesapeake Bay watershed are required to ensure their compliance with the Chesapeake Bay Agreement and include in their annual budget submissions any plans for expenditures for restoration or scientific investigation of the bay ecosystem.

Finally, H.R. 3039 authorizes a study by the Administrator every 5 years beginning in 2000 to the Chesapeake Bay program and an assessment of the state of the bay ecosystem. The bill also requires the Administrator to undertake a special 5-year study with the participation of the scientific community to establish and expand an understanding of the living resources of the Chesapeake Bay. The bill authorizes $30 million a year for FY2000-2005 for the Chesapeake Bay Program.

Background:

The historic Chesapeake Bay Agreement was signed in 1983 by signatories representing the States of Maryland, Pennsylvania, Virginia and the District of Columbia. As the largest estuary in the United States and one of the most productive in the world, the Chesapeake was the nation's first estuary to become the focus of restoration and protection efforts. In the late 1970's research of the Bay ecosystem identified three areas needing immediate attention: (1) nutrient over-enrichment, (2) diminishing underwater Bay grasses, and (3) toxic pollution. Once the initial research was completed, the Chesapeake Bay Program was started.

Since 1983 the highest priority has been the restoration of the Bay's living resources especially finfish, shellfish, Bay grasses and other aquatic life and wildlife. This work progressed until its inclusion in the Clean Water Act of 1990. However, that act has not been reauthorized since its expiration. The Chesapeake Bay Program has continued to receive annual funding but separate legislation establishing a higher priority and separate funding is needed. Two additional Chesapeake Bay agreements were signed in 1987 and 1992. Another agreement, "Chesapeake 2000," is expected to be signed this summer.

Costs/Committee Action:

CBO estimates that the legislation will cost $138 million in FY-2000-2005. The bill does not affect direct spending or receipts thus pay-as-you-go procedures do not apply.

The Transportation & Infrastructure Committee reported the bill by voice vote on March 16, 2000.

Eric Hultman, 226-2304

Tax Code Termination Act

H.R. 4199

Committee on Ways and Means
No Report Filed
Introduced by Mr. Largent, et. al, on March 9, 1999

Floor Situation:

The House is expected to consider H.R. 4199 on Thursday April 13, 2000. The Rules Committee will meet next week to consider a rule on this measure. Additional information on the rule and any amendments made in order will be provided in a *Floor Prep* prior to floor consideration.

Summary:

H.R. 4199 sunsets the current tax code effective December 31, 2004, but exempts taxes relating to Social Security and Medicare, commonly known as payroll taxes (FICA). Additionally, the bill requires that Congress approve a replacement tax code no later than July 4, 2004 in order to ensure a smooth transition to the new system at the beginning of 2005. The measure also establishes a bipartisan 15 member National Commission on Tax Reform and Simplification. The commission will begin meeting sixty days after the bill's enactment, and must report to Congress within 180 days after their first meeting, on a new, fairer and more simple tax code. The purpose of the measure is to foster a national dialogue on ways to replace the current income tax system with one that is fairer, less complicated, and less burdensome to working Americans.

H.R. 4199 does not address any replacement option directly or indirectly. It is only intended to guarantee action on the part of future Congresses to put into place a better form of federal income tax. The bill's provision to sunset the tax code by a certain date ensures that either (1) a new tax code is implemented that reflects the priorities of American taxpayers, or (2) Congress is forced to repeal the date-certain sunset law and address the issue of tax reform according to the public will.

Background:

The issue of tax reform during the last several years has entailed a variety of efforts to reduce tax burdens on working families while reducing the size of government. Since the Republicans assumed control of the House there have been a number of attempts to provide tax relief. The first occurred during the *Contract With America* period. This Tax Fairness and Deficit Reduction Act passed in the House on October 26, 1995, and was included as a part of the Budget Reconciliation Act, H.R. 2491. In 1999 Congress passed H.R. 2488, the Taxpayer Refund and Relief Act, which was vetoed by the President on September 23, 1999. This year, the House has passed a number of smaller bills in an attempt to continue providing tax relief. For example, H.R. 6, provides marriage penalty tax relief, and H.R. 3801, which provides tax relief for businesses impacted by an increase in the minimum wage. Meanwhile, a number of suggestions for a fairer, simpler tax system have been proposed. These include a flat-tax, a national sales tax, and a value

added tax. H.R. 4199 is designed to continue this debate and force Congress to take action to create a simpler and more manageable tax code.

Legislation similar to H.R. 4199 passed in the House 219-209 on June 17, 1998, but it failed in the Senate.

Views: At press time, the position of the Clinton Administration on H.R. 4199 was unavailable. The Leadership supports the bill.

Costs/Committee Action:

A CBO cost estimate for H.R 4199 was unavailable at press time.

The Ways and Means Committee did not consider the bill.

Greg Mesack, 226-2305

Radio Broadcasting Preservation Act

H.R. 3439

Committee on Commerce
H.Rept. 106-___
Introduced by Mr. Oxley on November 17, 1999

Summary:

H.R. 3439 allows the Federal Communications Commission (FCC) to continue to issue proposed low-power FM (LPFM) radio licenses as long as they comply with current interference standards. Additionally, the FCC will be required to conduct a field test in nine radio markets around the country to determine the effect of lessening interference standards on radio listeners, incumbent high-power radio broadcasters, the transition to digital radio broadcasting, stations that provide a reading service for the blind to the public, and FM radio translator stations. Additionally, the FCC will submit a report to Congress with a recommendation on lessening interference standards in order to issue more LPFM licenses.

Background:

Low Power FM (LPFM) refers to a new FM Radio service that was adopted by the FCC on January 20, 2000 (Mass Media Docket No. 99-25). The purpose of the new radio service is to provide a class of radio stations to serve localized communities or under represented groups within communities a new, localized radio broadcast service to enhance community-oriented radio broadcasting. H.R. 3439 prevents the FCC from implementing its proposal by repealing any prescribed LPFM rules and revoking any LPFM licenses that might be issued by the date of enactment.

The FCC plans to accept applications within designated filing windows for the new LPFM stations . The FCC has split its jurisdiction into five groups of states in order to grant the first 100-watt LPFM frequencies. Each region will have a five-day filing window. The FCC held a lottery on Monday, March 27, 2000 to determine the order of the windows. Tentatively, filing windows will follow each other at three-month intervals. However, the Bureau may reduce or increase the amount of time between filing windows as it gains experience with this new service and filing approach. The dates of the four subsequent filing windows are due to be announced by Public Notice at least 30 days prior to the first day of each window.

The FCC's Order authorizes two new classes of noncommercial LPFM radio services, (1) LP 100, with power from 50-100 watts reaching a radius of about 3.5 miles; and (2) LP 10, with power from 1-10 watts reaching a radius of about 1-2 miles. The new stations must be offered by a *noncommercial* entity, which may include government or private educational organizations, associations or entities; non-profit entities with educational purposes; or government or non-profit entities providing local public safety or transportation services. No existing broadcaster, or any other media entity can have an ownership interest, or enter into any program or operating agreement with any LPFM station.

The main point of contention surrounding this new service is the question of technical interference to existing full power radio broadcasters. Section 73.215 of the Commission's rules provides that the pre-

dicted field strength of a potentially interfering station can be no more than 40 decibels (dB) than the protected field strength along a station's protected contour. The Commission's Order imposes station separation requirements between new LPFM and existing radio stations on 1st and 2nd adjacent and intermediate frequency channels. However, there are no 3rd adjacent channel separation requirements. So, for example, if a full power radio station broadcasts at the 104.5 position on the radio dial, a prospective low power licensee would be prohibited from broadcasting from 104.7 (the first adjacent channel) and 104.9 (the second adjacent channel), but not 105.1 (the third adjacent channel). These restrictions would also apply working *down* the dial as well.

Five prominent technical studies have measured the level of interference (commonly recognized as static to the listener) that such low power broadcasters may produce. The studies produce conflicting conclusions regarding interference on the third adjacent channel (105.1 in the above example). Discriminating factors that lead to the differentiating conclusions include: the price/quality of the radio used in the study (a high priced car radio generally receives less interference than a $20 clock radio), differing noise measurement methodologies, and the size of the various markets where the tests were conducted. Several engineers that conducted the study testified to the findings of their respective studies at the Subcommittee hearing on the issue.

The FCC's original intent in creating the LPFM service was to create a class of radio stations "designed to serve very localized communities or under represented groups within communities." The Commission found that recent extensive consolidation of radio stations into large commercial groups and the financial challenges of operating full power commercial stations, has limited the broadcasting opportunities for highly localized interests.

The Commissioners do not necessarily agree, however, on the best ways to allow for additional diversity throughout markets, if and when proper spectrum is available for smaller broadcasters. The small independent broadcasters claim that the creation of the new LPFM service threatens their economic viability. These stations fear that local support that presently comes to them in the form of advertising, may be replaced by potential underwriting of the new noncommercial LPFM stations. Similarly, existing public radio stations fear that their underwriting and contributions will be siphoned away to the various new community based LPFM stations. Further, there is a concern that stations which provide reading services to the visually disabled, which operate as a part of primarily public radio stations, will be terminated as a result of this new LPFM service.

Existing broadcasters are also concerned that the proposal jeopardizes the future digital radio conversion. They fear that adding a large number of low power stations to the already congested FM radio band would make the transition to digital broadcasting more problematic. Critics also argue that the FCC lacks the necessary resources to properly regulate these new broadcasters and manage the inevitable conflicts that will arise between services. As an alternative, they suggest that community groups may obtain existing commercial or noncommercial licenses, use public access cable, purchase broadcast or cable air time, publish periodicals, and utilize Internet web sites and e-mail.

Costs/Committee Action:

An official CBO cost estimate was unavailable at press time.

The Commerce committee reported the bill by voice vote on March 29, 2000.

Brendan Shields, 226-0378